

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Alveto Rivera,

Civil No. 10-3954 (RHK/FLN)

Petitioner,

ORDER

v.

John King,

Respondent.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated August 11, 2011, and after conducting a de novo review of the Report and Recommendation and Petitioner's Objections thereto, and upon all the files, records, and proceedings herein, **IT IS ORDERED** that:

1. Petitioner's Objections (Doc. No. 14) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 13) is **ADOPTED**;
3. Petitioner's Petition for Writ of Habeas Corpus For Person in State Custody (Doc. No. 1) is **DENIED**;
4. Pursuant to 28 U.S.C. §2253(c), a Certificate of Appealability will not be issued because Petitioner has failed to make a substantial showing of the denial of any constitutional rights; and
5. This action is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 23, 2011

s/Richard H. Kyle _____
RICHARD H. KYLE
United States District Judge